Bharatiya Nyaya Sanhita Act, 2023

Why in news?

President gives assent to 3 Criminal Law amendment bills, the Bharatiya Nyaya Sanhita, the Bharatiya Nagarik Suraksha Sanhita and the Bharatiya Sakshya Adhiniyam.

To know more about criminal law reforms, click here.

What are the significant take aways from the new act?

- **Addition** – *20 new offences* have been added.
- **Deletion** – *19 provisions* that existed in IPC have been deleted.
- **Punishment of imprisonment** – It has been *increased in 33 offences*.
- **Punishment of fine** – It has been *enhanced in 83 offences*.
- **Punishment of 'community service'** – It has *been introduced in 6 offences*.
- **Mandatory minimum punishment** – It has been *introduced in 23 offences*.
- Reorganisation of offences are made wherein similar provisions have been clubbed together.

What are the major changes in the new act?

- **New definitions** – It defines '*child*' and also defines '*beggary*' as a form of exploitation for trafficking.
- **Modifications** – The definition of '*movable property*' *is widened* to include property of every description.
- In the definition of *grievous hurt*, the number of days has been reduced from 20 days to 15 days.
- **New chapter** - On *offence against woman and child* and on '*inchoate offences*' (attempt, abetment and conspiracy).
- **Sedition** – Under new name *'deshdroh'* with wider definitions.
    - It covers acts of subversive activities, and those encouraging feelings of separatist activities.
- **Gender neutrality** – While rape laws continue to operate only for women, *some children related laws* were modified.
    - For the offences dealing with illicit intercourse.
    - For the *offence dealing with kidnapping of minors*, it is 18 years for both the genders.
- For adults, the *offence of outraging the modesty of women* (354A of the IPC) and voyeurism (354C) now has gender neutrality for the accused, which means that women can also be booked.
- **Inclusion** – It includes t*ransgender* in the definition of 'gender' and includes e*lectronic and digital records* in the definition of 'document'.

- **Deletion** – *Unnatural sexual offences* under Section 377 of IPC, the provisions related to *thugs* and *adultery*.

  In 2018, the Supreme Court has struck down the section 377 of the IPC which criminalised homosexuality and the offence of adultery as unconstitutional.

- **Community service** – It is introduced as a punishment for theft of less than Rs 5,000.
- **Attempt to suicide** – It criminalises 'suicide attempts with the intent to compel or restrain any public servant from discharging his official duty".
  - Jail term which may extend to 1 year with community service.
  - It could be invoked to prevent self-immolations and hunger strikes during protests.
- **Damage to public property** - It now carry a graded fine, which means the fine corresponds to the amount of damage caused.
- **Mob Lynching and hate-crime murders** – It is for cases when a mob of *5 or more individuals commits murder* based on factors such as race, caste, community, or personal belief.
  - Punishment extends from life imprisonment to death.
- **Organised crime** – It prescribe vast powers of surveillance and relax standards of evidence and procedure in favour of the state.
  - The punishment for attempt to commit and for committing is the same, but a distinction is based on whether a death is caused or not by the alleged offence.
- A separate category of *petty organised crime* criminalises 'theft, snatching, cheating, unauthorised selling of tickets, unauthorised betting or gambling, selling of public examination question papers'.
- **Terrorist act** – While it imports larger parts from UAPA act, the offence involving terror financing is broader than in UAPA.
- False Promises to Marry - *Clause 69* seems to ostensibly tackle the "love jihad" narrative by criminalising "deceitful" promise to marry.
  - It also essentially *criminalises consensual sexual activity too*.

What are the minor changes in the new act?

- **Removal of archaic expressions** – At 9 places, expressions like '*lunatic*', '*insane*' *and* '*idiot*' have been done away with.
- **Deletion of colonial remnants** – Terms like '*British calendar*', '*Queen*', '*British India*, '*justice of the peace*' have been deleted.
- **Replacement of terminologies**
  - At 44 places 'Court of Justice' has been replaced with '*Court*'.
  - At 12 places 'denotes' has been replaced with '*means*'.
  - At 3 places and 'that is to say' is replaced with '*namely*'.
- **Uniformity** – The *expression* '*child*' is same throughout the BNS.
- *Contemporary style of drafting* has been used.

New offences included under Bharatiya Nyaya Sanhita (BNS)

• Organised crime
• Petty organised crime
• Mob lynching
• Terrorism acts
• Hit and run
• Hiring child to commit offence
• Snatching
• Abetment outside India
• Acts endangering the sovereignty, integrity and unity of India.
• Publication of false or fake news etc.

References

1. The Indian Express| Changes in Nyaya Sanhita
2. Deccan Herald| Key points from BNS

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